

REMARKS

This is in response to the Office Action dated September 22, 2006.

Attached is a Petition For Request for A Three-Month Extension of Time and a check in the amount of \$510 for the government fee.

Claims 1-2, 4, 17, and 25-26 have been previously canceled. Claims 15-16, and 20-21 have been previously presented. Claims 3, 5-14, 18-19, 22-24, and 27 have been currently amended. Claims 28 and 29 are new.

Applicant hereby authorizes the Commissioner to charge Account No. 08-1500 for any claim excess fees.

Claims 3, 5-16, 18-24 and 27 have been rejected under 35 USC 112, first paragraph, as failing to comply with the enablement requirement. Each of these claims have been amended to overcome the rejection. Applicant therefore respectfully requests reconsideration of the rejection.

Claims 3, 5-16, 18-24 and 27 have been rejected under 35 USC 112, first paragraph, because the specification, while being enabling for ports, does not reasonably provide enablement for adjustable ports. Applicant has currently amended each of these claims and therefore requests reconsideration of the rejection.

Examiner has indicated that "adjustable ports" are not sufficiently described in the specification and that the form of adjustability in the specification is vague. Applicant respectfully disagrees.

Applicant provides a single, planar burner plate that can be adapted and configured to fit a particular configuration of heat exchanger tubes, as described for example on Page 2, lines 19-22:

In one embodiment the spacing of the ports or groups of ports matches the spaces of the inlets. Alternatively, the ports or groups of ports are not necessarily aligned with the inlets. Thus, the configuration of the ports can be selected to suit the specific inlet configuration.

Applicant further describes, on Page 3, lines 21-25, that the single, planar plate is adaptable when it states:

Preferably the plate with the ports is secured to the body via flanges which are crimped in position. This therefore enables a common housing to be utilized with the plate and the configuration of the ports on the plate being selected to match the HX tubes configurations with which the burner assembly is to be provided. This allows the burner to be relatively easily tailored and adapted to suit particular uses.

Applicant would like to point out that the statement, "the configuration and/or shape of the ports can be adjusted" should be interpreted as meaning that the ports are punched or formed to a specific size diameter to meet the required gas/air mixture for combustion emission from each particular burner. Thus, for each burner, at the time of the design of the same, the size of the ports required in order to achieve the desired air/gas mixture is determined and then the ports in the burner plate are formed to that size. The port size cannot subsequently be adjusted during use of the burner.

Examiner Basichas has suggested that the selection of the aperture size at the design stage and adjusting the sizes from burner plate to burner plate depending on specific requirements is inherent in the burner art. However, Examiner Basichas has provided no support for this assumption. Nor is there any support provided that shows the particular aperture configuration as set out in Applicant's independent claims. Indeed, the Examiner's assumption that the selection of aperture size and adjusting the sizes from burner plate to burner plate is contrary to what the closest prior art discloses. The prior art as relied upon by Examiner Basichas, namely '686 Specht, provides a burner assembly which has a membrane formed of a folded sheet material which forms a series of fins and which also has varying depths along the front surface of the same caused by the folding action of the sheet material. Applicant believes that the Specht reference should be taken to represent the prior art, not a mere assumption.

Clearly, only Applicant has appreciated that a single planar burner plate can be provided and

can be rendered successful in operation by the provision of a plurality of apertures in the configurations as set out in the currently amended claims. By providing apertures in a specified configuration, the need to provide a ribbon plate is avoided. Applicant's burner assembly is relatively simple and cheap to manufacture while, at the same time, ensuring that the required air/gas mixture can be achieved as the size of the apertures can be adjusted to suit particular design and use requirements. This is something which cannot be achieved in the '686 Specht patent, since there is no aperture configuration of this type disclosed.

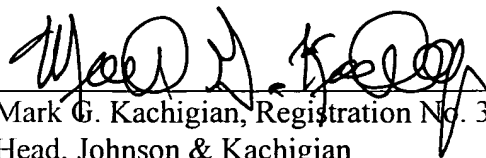
Applicant sincerely believes that the currently amended claims overcome the 112 rejection and, therefore, respectfully requests reconsideration of the rejection.

New claim 28 includes the subject matter of claim 27 with the additional feature that the apertures around the central aperture are smaller in size than the central aperture. This feature certainly is not disclosed or achievable in the cited references. Support for the new claim can be found on lines 10 and 11 of Page 6 and in Figures 1 and 2a and no new matter has been added.

Having distinguished over the prior art and resolved the section 112 issue, Applicant believes that the application is now in condition for allowance and such action is earnestly solicited. If any further issues remain, a telephone conference with the Examiner is respectfully requested. If there are any charges associated with this amendment, the Examiner is hereby authorized to charge such fees to Deposit Account No. 08-1500.

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Respectfully submitted,



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